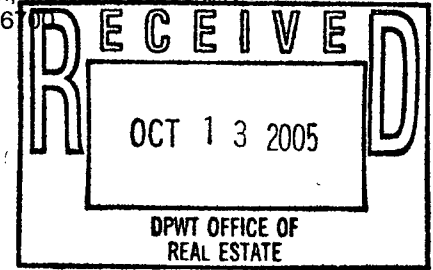




6-61R 49  
Metropolitan  
10400 Detrick Avenue  
Kensington, Maryland 20895-2484  
(301) 929-6700

Housing Management Division  
10400 Connecticut Avenue, Suite 410  
Kensington, Maryland 20895-2484  
(301) 929-6700



October 10, 2005

Ms. Cynthia Brenneman  
Montgomery County Department of Public Works and Transportation  
101 Monroe Street  
10<sup>th</sup> Floor  
Rockville, MD 20850

**RE: Amendment to the Air-Rights Lease between Montgomery County and the Housing Opportunities Commission for the Property Bounded by Woodmont Avenue, Old Georgetown Road, and Edgemoor Lane**

Dear Ms. Brenneman:

On June 23, 1995 Montgomery County and the Housing Opportunities Commission entered into an Air-Rights Lease for the above mentioned property (hereinafter referred to as "The Metropolitan"). The On-Time Cafe is a retail tenant at the Metropolitan. The owner of On-Time Cafe would like to install a small grill so he can serve hot foods and improve his business. In order to do this, he needs to install a vent to the roof. The space occupied by the cafe is first floor space in the county office building, which HOC has an easement to lease as retail. The county office building is three stories tall. Therefore, the vent ducts would have to be run through county space on the second and third floors and the vent fans would have to be placed on the roof, which is also county space. In order to accomplish this, HOC is requesting an Amendment to the Reciprocal Easement Agreement, which is Exhibit J to the Air-Rights Lease.

Per §3.07(a) of the Reciprocal Easement Agreement (the "Lessee Improvements Ventilation Easement" attached), HOC has an exclusive easement for the benefit of the Lessee Improvements for heating, ventilation, and air conditioning equipment "over portions of the Garage Property designated on Exhibits I-1 and I-2." §3.14(b) of the Reciprocal Easement Agreement ("Exclusive Retail Easement" attached) gives HOC an easement for the retail space occupied by On-Time Cafe and makes the space part of the Lessee Improvements. The areas designated on Exhibits I-1 and I-2, however, do not seem to include the retail space. Therefore, §3.07(a) needs to be modified to include the retail space and the floors directly above.

Attachments I-1(a) and I-1(b) show the retail space in relation to the rest of the building, and the desired location of the new vent in relation to the space, respectively. Drawings A – D show specifically where the equipment would be located. Details A – C and D –



Roof show how the space would be built-out on each floor to accommodate the equipment. And Details D – Exhaust Fan and D – Supply Fan show the equipment to be installed.

Please review the attached information and let me know when we can proceed with getting the Amendment signed. If you need further information, please do not hesitate to call me at 301-929-6734 or e-mail me at [DesjardinsP@hocmc.org](mailto:DesjardinsP@hocmc.org).

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter J. Desjardins', with a long horizontal flourish extending to the right.

Peter J. Desjardins  
Asset Manager

**FIRST AMENDMENT TO  
RECIPROCAL EASEMENT AGREEMENT  
AND DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS**

THIS *First Amendment to Reciprocal Easement Agreement and Declaration of Covenants, Conditions, and Restrictions* (the "Agreement"), dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY ("Lessee"), and MONTGOMERY COUNTY, MARYLAND ("Lessor").

**WITNESSETH:**

WHEREAS, Lessor is the owner of a certain parcel of land in Bethesda, Maryland bounded by Woodmont Avenue, Old Georgetown Road, and Edgemoor Lane (the "Land"), on which Lessor has constructed a multilevel parking structure; and

WHEREAS, Lessor and Lessee have entered into an Air Rights Lease dated June 23, 1995 (the "Lease"); and

WHEREAS, under the terms of the Lease, Lessor leased to Lessee a portion of the Land, a portion of the Existing Structure, and a portion of the air rights thereover on which Lessee has constructed a multifamily apartment complex, as well as approximately 14,000 square feet of related retail uses, and community and public spaces all as more fully described in the Lease; and

WHEREAS, in connection with the execution of the Lease, the parties also executed a Reciprocal Easement Agreement and Declaration of Covenants, Conditions, and Restrictions dated June 23, 1995 (the "Reciprocal Easement Agreement"), and recorded at Liber \_\_\_\_\_, Folio \_\_\_\_\_, among the Land Records of Montgomery County, Maryland, to provide Lessee with certain easements for support, as well as grants of easements to each other for repair, construction, and otherwise necessary for coordination of repair, construction, reconstruction of maintenance of the Garage, Lessee Improvements, and the Office Project, as well as easements for use by the public in connection with

pedestrian access and transport between various portions of the Garage the Lessee Improvements, and the Office Project; and

WHEREAS, pursuant to the terms of the Lease, Lessee has sublet certain retail space for uses related to the operation of the residential facility including Unit 1 ("Unit 1"), located at 4801 Edgemoor Lane, operated as the "On Time Café" as of the date of this Agreement; and

WHEREAS, the tenant in Unit 1 operates a coffee shop and carry-out; and

WHEREAS, the tenant in Unit 1 desires to install a small grill for the purposes of preparing and subsequently serving hot food; and

WHEREAS, in order to install such a grill, the tenant in Unit 1 is required to install a ventilation system to the roof above Unit 1 through the Garage Property; and

WHEREAS, Lessee desires to accommodate the request of the tenant in Unit 1, as it will provide a benefit to the residential facilities operated by Lessee.

NOW, THEREFORE, the parties amend the Reciprocal Easement Agreement as follows:

1. Section 3.07(a) Exclusive Ventilation Easement for Lessee Improvements is stricken, and the following substituted therefore:

3.07(a) Exclusive Ventilation Easement for Lessee. The Lessor grants an exclusive easement for the benefit of the Lessee Improvements for the location, construction, use, operation, maintenance, repair, replacement, relocation, and removal from time to time of ventilation shafts (both intake and exhaust) plenums, ducts, fans, blowers, motors and other equipment related to heating, ventilating and air conditioning of the Lessee Improvements over portions of the Garage Property designated on **Exhibits I-1** and **I-2** attached to the Reciprocal Easement and, as designated, on **Exhibits I-1A** and **I-1B** attached hereto, and made a part hereof. The installation of any venting system in the areas identified on **Exhibits I-1A** and **I-1B** shall be performed in accordance with the sublease between Lessee and the tenant in Unit 1 and in a workmanlike manner with all contractors insured and approved by Lessee, and at times and on conditions which do not unreasonably interfere with the use of the Garage by

Lessor. The ventilation system shall not materially interfere with the use or operation of the Garage or adversely affect its structural integrity.

3. All capitalized terms not defined herein shall have the meaning described to them in a Reciprocal Easement Agreement.

4. All provisions of the Reciprocal Easement Agreement not modified herein shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this *First Amendment to Reciprocal Easement Agreement and Declaration of Covenants, Conditions, and Restrictions* on the day and year first above written.

**WITNESS:**

**HOUSING OPPORTUNITIES COMMISSION  
OF MONTGOMERY COUNTY**

\_\_\_\_\_

By: \_\_\_\_\_

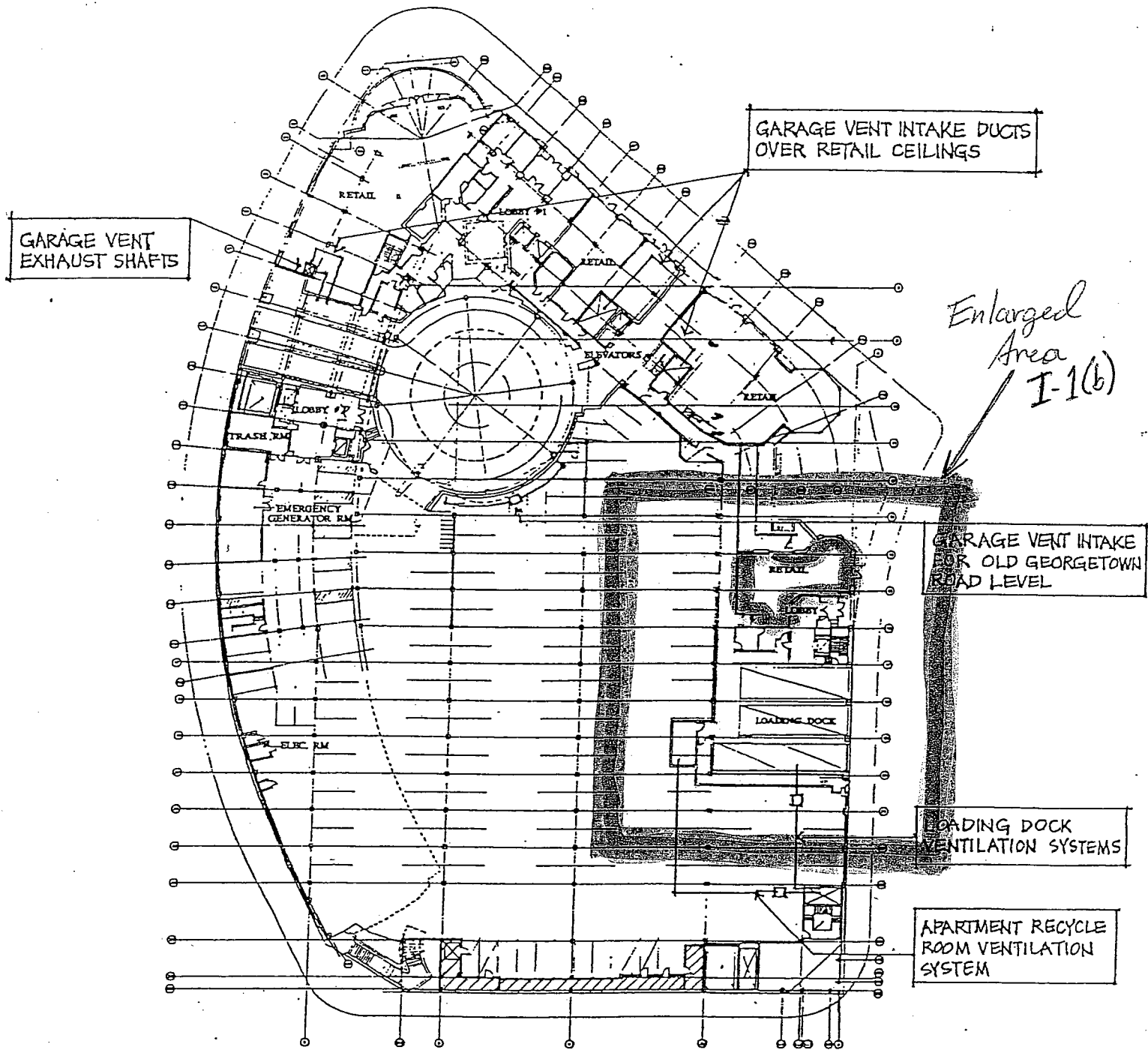
**WITNESS:**

**MONTGOMERY COUNTY, MARYLAND**

\_\_\_\_\_

By: \_\_\_\_\_

# Ventilation Easements



The Metropolitan

Old Georgetown Road Level

Ventilation Easements

I-1(a)

I-1 (b)

GARAGE VENT INTAKE  
FOR OLD GEORGETOWN  
ROAD LEVEL

New Vent

LOADING DOCK

LOADING DOCK  
VENTILATION SYSTEMS

APARTMENT RECYCLE  
ROOM VENTILATION  
SYSTEM



# "Lessee Improvements Ventilation Easement"

forth above.

## Section 3.06. Mechanical Room Easements.

3.06(a). Non-Exclusive Mechanical Room Easement for Garage and Office Project. The Lessee grants a non-exclusive easement for the benefit of the Garage, and the Office Project in and to the mechanical rooms located within the Demised Premises and designated for such purpose on Exhibits F-2, H-1 and H-2 hereto attached for the purposes of ingress and egress thereto and for constructing, reconstructing, inspecting, altering, maintaining, repairing, and replacing from time to time electrical and mechanical equipment necessary or desirable in connection with the furnishing of utilities and mechanical services to the Lessee Improvements. The Lessee shall be responsible for placing, repairing, replacing, operating, and maintaining its own equipment within such mechanical rooms and for any cleaning of the mechanical rooms necessitated by any of the foregoing all at its sole cost and expense. The Lessee shall at all times operate and maintain its facilities located therein in a safe and sound condition at the Lessee's sole cost and expense.

## Section 3.07. Ventilation Easements.

3.07(a). Exclusive Ventilation Easement for Lessee Improvements. The Lessor grants an exclusive easement for the benefit of the Lessee Improvements for the location, construction,

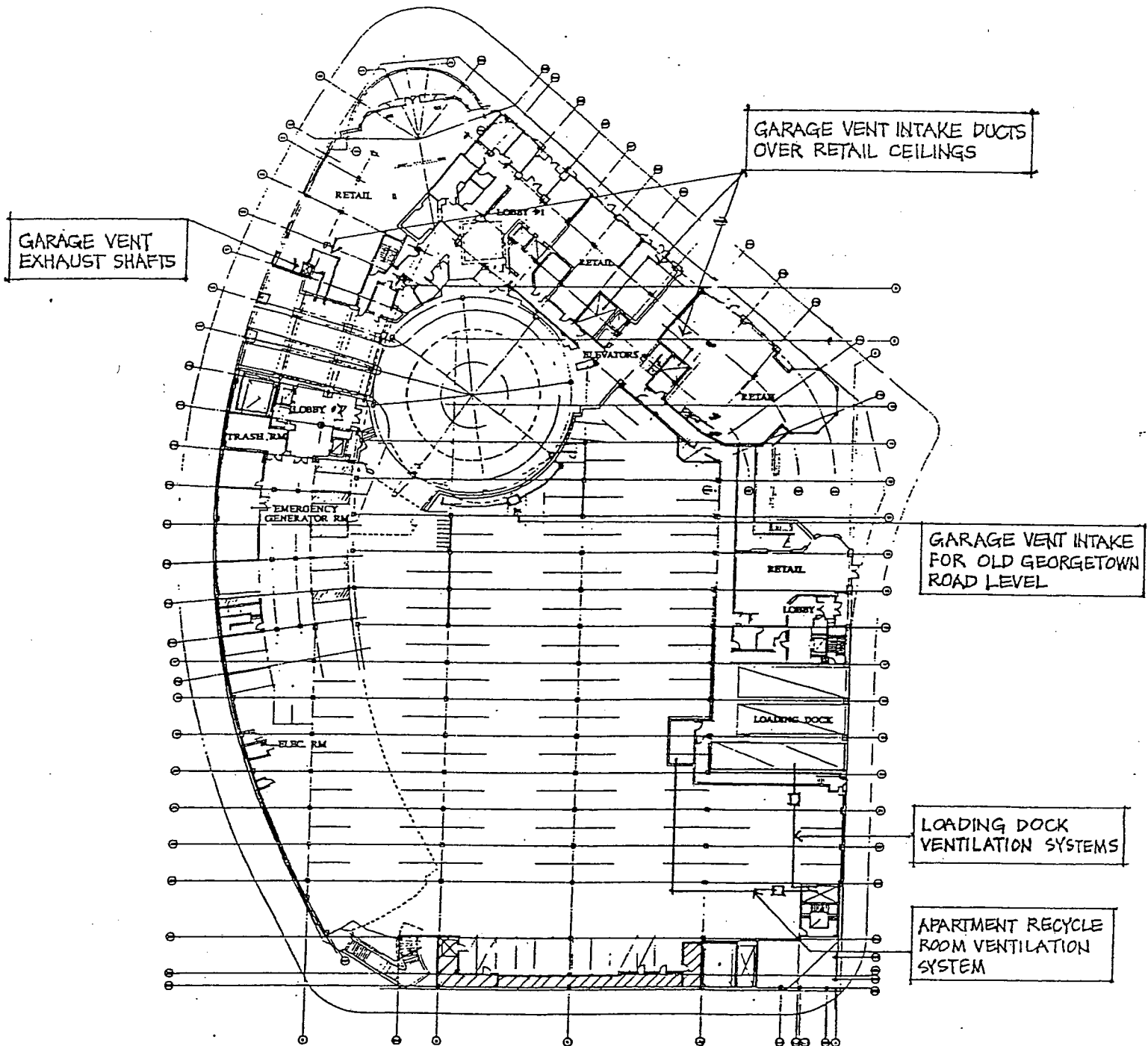
use, operation, maintenance, repair, replacement, relocation and removal from time to time of ventilation shafts (both intake and exhaust), plenums, ducts, fans, blowers, motors, and other equipment related to the heating, ventilating and air conditioning of the Lessee Improvements over portions of the Garage Property designated on Exhibits I-1 and I-2 attached hereto.

3.07(b). Exclusive Ventilation Easement for Garage. The Lessee grants an exclusive easement for the benefit of the Garage for the location, construction, use, operation, maintenance, repair, replacement, relocation, and removal from time to time of ventilation shafts (both intake and exhaust), plenums, ducts, fans, blowers, motors, and other equipment related to the heating, ventilating and air conditioning of the Garage over the portions of the Lessee Improvements designated for such purpose on Exhibit I-1 through I-2 attached hereto. In accordance with Section 4.01(e) of the Air Rights Lease, Lessee shall install certain ventilation shafts as part of the initial construction and thereafter shall not interfere with the use thereof for the purposes set forth in this Section 3.07.

Section 3.08. Easements for Elevators and Stairtowers.

3.08(a). Exclusive Elevator Easement for Lessee Improvements. The Lessor grants an exclusive easement for the benefit of the Lessee Improvements for the installation, location, construction,

# Ventilation Easements



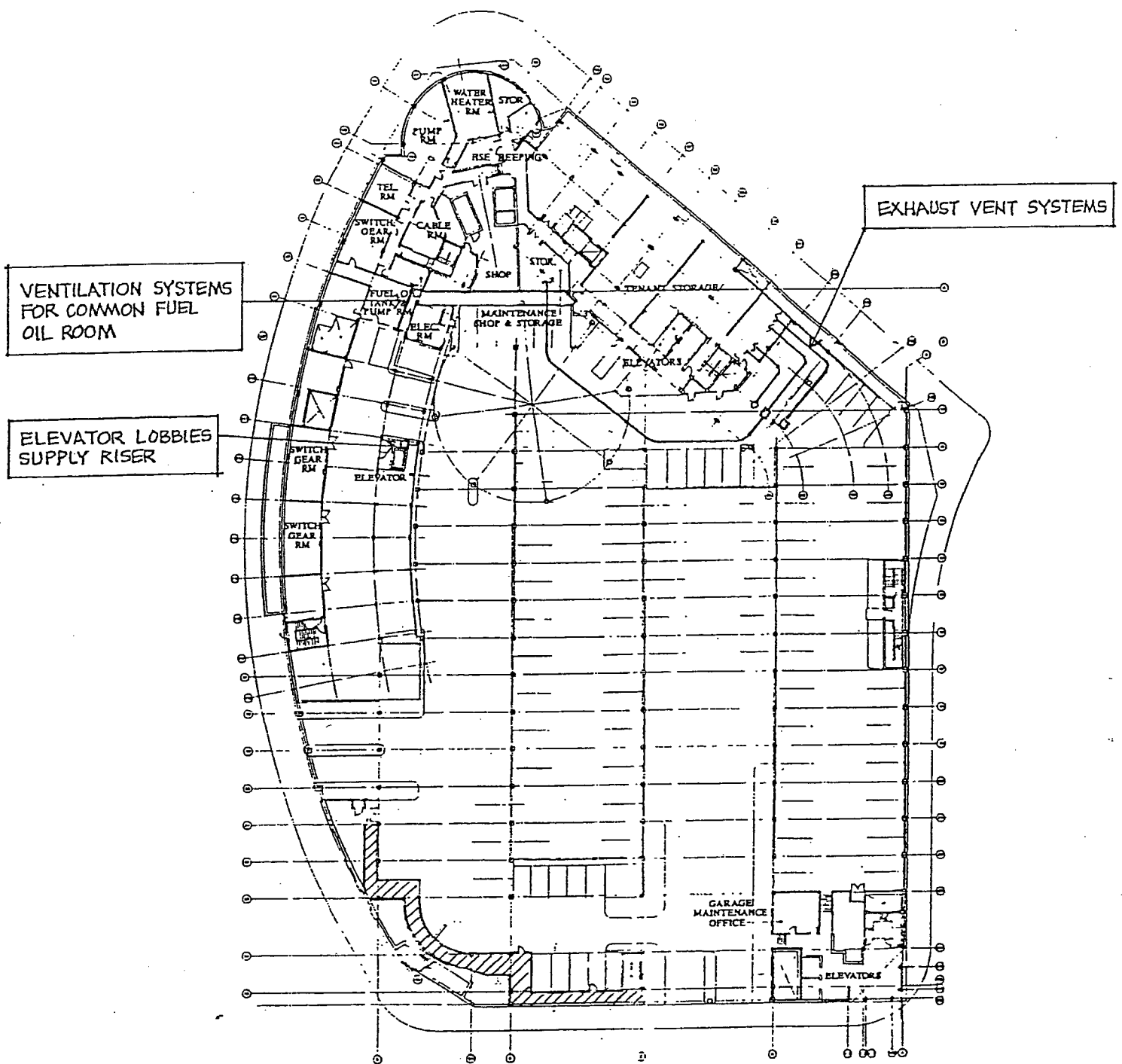
The Metropolitan

Ventilation Easements

Old Georgetown Road Level

I-1

# Ventilation Easements



The Metropolitan

Edgemoor Lane Level

Ventilation Easements

I-2

## "Exclusive Retail Easement"

service corridor for the convenience of those wishing to transport materials to and from the Lessee Improvements and the Loading Dock. Lessor or its designee shall construct the Office Project and turn over the area designated Loading Dock to the Lessee as an unfinished shell with a concrete slab ceiling; concrete slab floor and block walls as shown on the Office Plans and Specifications listed on Exhibit P to the Air Rights Lease so that Lessee can complete these areas in accordance with the Lessee Plans and Specifications listed as Exhibit M to the Air Rights Lease as part of the Lessee Improvements. The Loading Dock shall be available for use at times and under conditions agreed to by the parties from time to time.

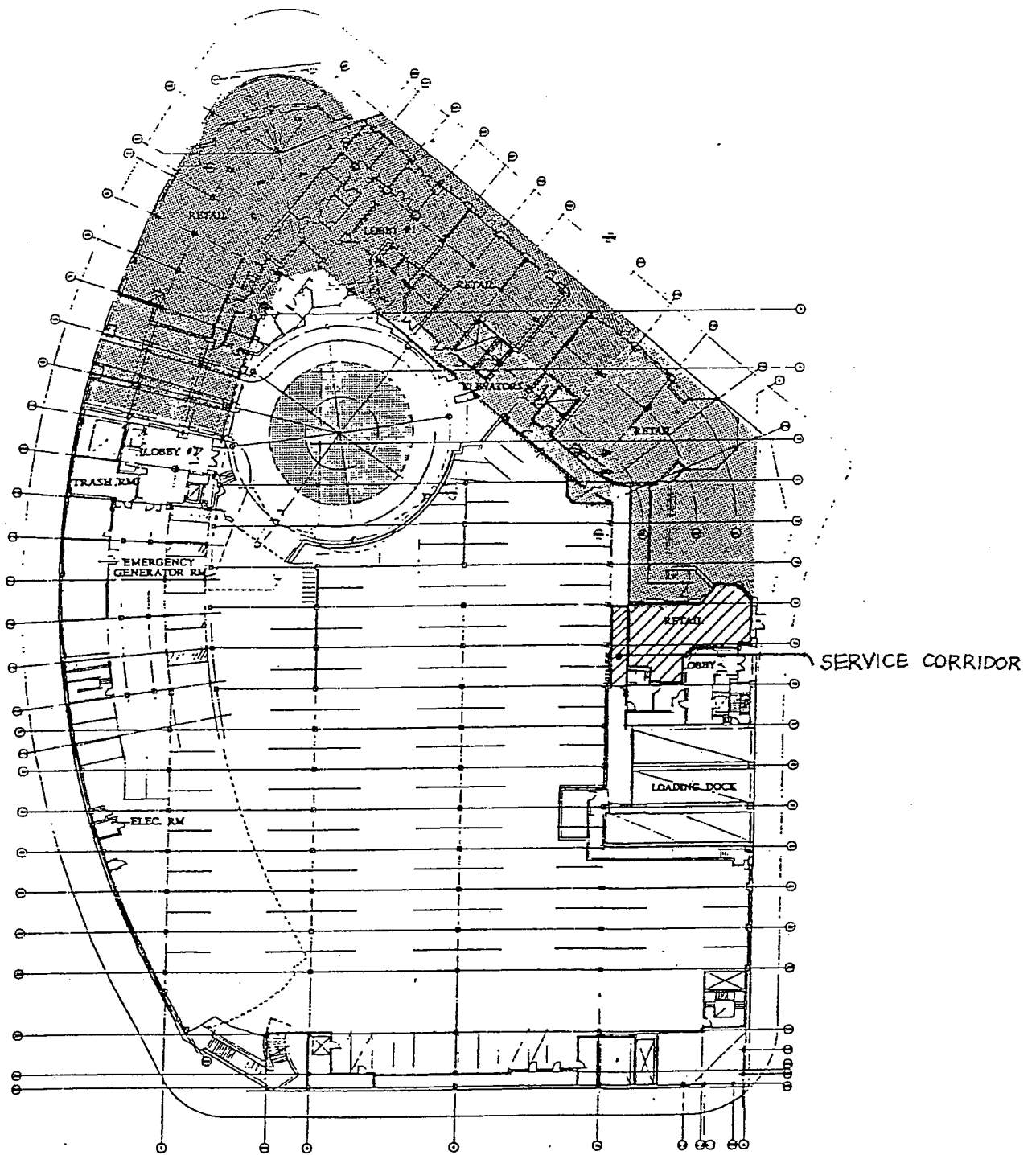
3.14(b). Exclusive Easement for Retail and Service Corridor.  
The Lessor grants an exclusive easement for the benefit of the Lessee Improvements in and to the area designated "Retail" and "Service Corridor" on Exhibit O attached hereto for the purpose of finishing the construction, reconstruction, inspection, alteration, maintenance, repair, replacement and operation of retail space and to provide a service corridor for the convenience of those wishing to transport materials to and from the Lessee Improvements and the Loading Dock. Lessor or its designee shall construct the Office Project and turn over the area designated "Retail" and "Service Corridor" to the Lessee as an unfinished shell with a concrete slab

ceiling, concrete slab floor and block walls all as shown on the Office Plans and Specifications listed on Exhibit P to the Air Rights Lease so that Lessee can complete these areas in accordance with the Lessee Plans and Specifications listed on Exhibit M to the Air Rights Lease as part of Lessee Improvements.

3.14(c) Cost of Services and Utilities to Office Project, Loading Dock and Retail. Lessee and Lessor agree to make every reasonable effort for separate metering of areas utilized by the several occupants of the Office Project. The cost of services and utilities billed or charged by others to Lessor or incurred by Lessor for the Office Project for services or utilities provided for the benefit of the Loading Dock, Service Corridor and Retail in the Office Project shall be reimbursed by Lessee on a proportionate basis on a formula based on the relationship of the area occupied by the Loading Dock, Service Corridor and Retail to the area of the Office Project or other formula providing for fair division of costs between the parties.

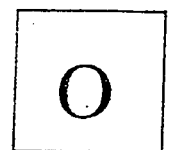
Section 3.15. Non-Exclusive Easement for Use of Playlot. The Lessor grants to Lessee, its tenants and their guests and invitees and the general public a non-exclusive easement for the use of the Playlot at any time when the daycare center in the Office Project is not in operation. Lessor shall be responsible for maintenance of and repairs and replacement to the Playlot in accordance with Section 5.04 of this Agreement unless otherwise agreed pursuant to the Air Rights Lease. The rights created by this Section 3.15 as to the general public may be enforced solely by Montgomery County, Maryland, as a municipal entity.

Section 3.16. Responsibility for Plaza Level and Old Georgetown Road Level. Upon Substantial Completion of the Lessee Improvements, Lessee shall be responsible for all Structural

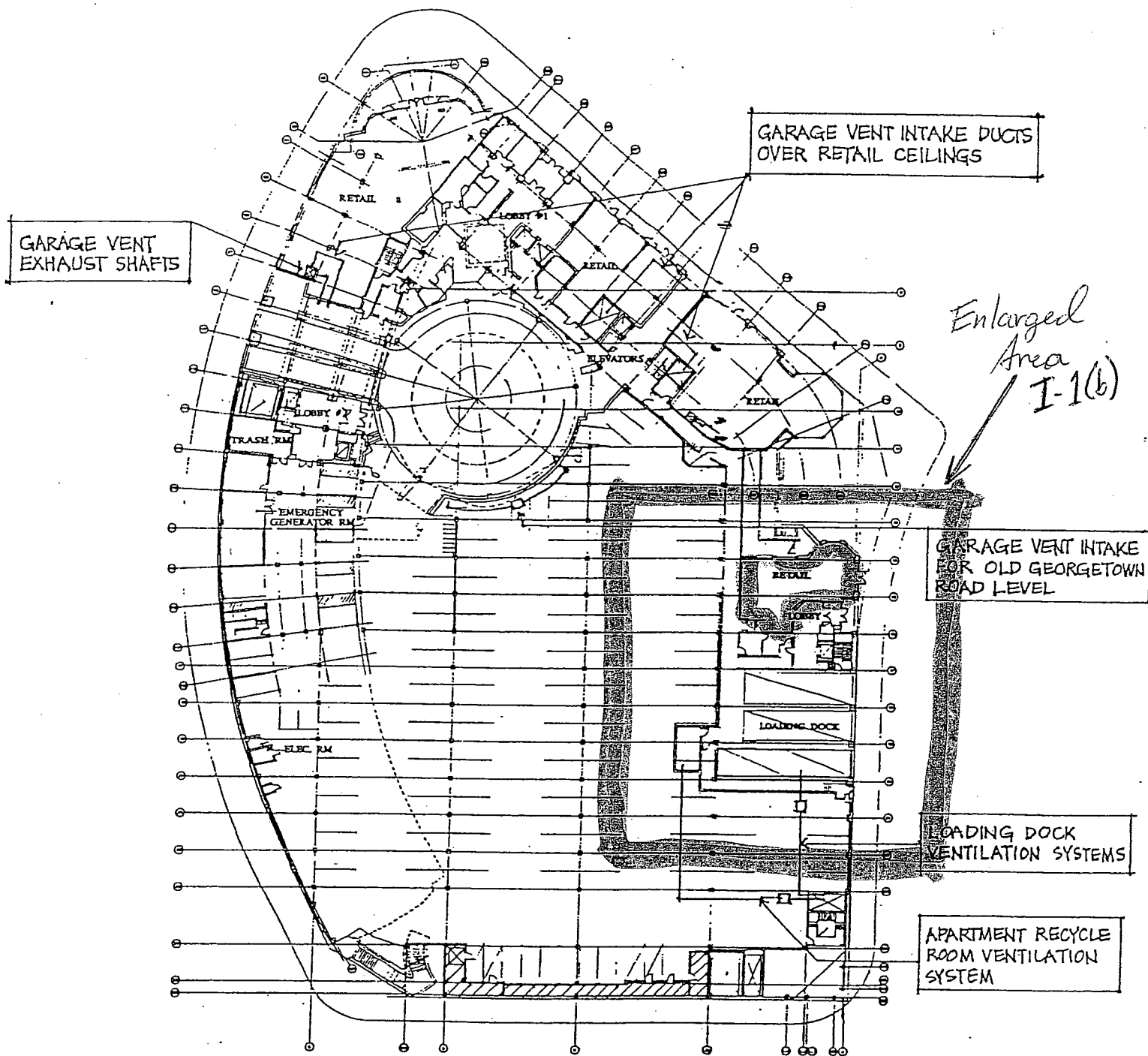


The Metropolitan  
Old Georgetown Road Level

Retail and Service Corridor  
Easements



# Ventilation Easements



The Metropolitan

Ventilation Easements

Old Georgetown Road Level

I-1 (a)

I-1 (b)

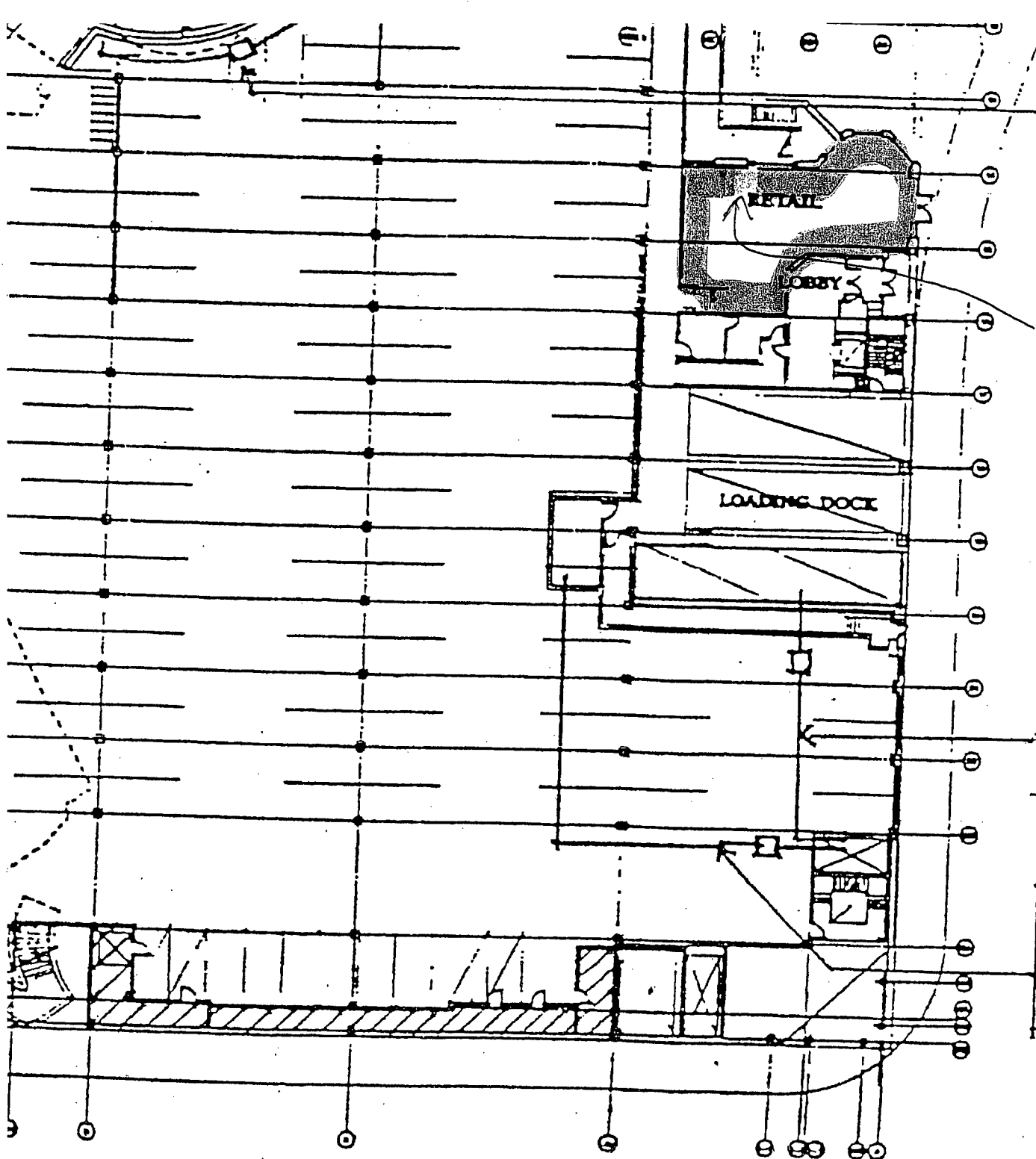
GARAGE VENT INTAKE  
FOR OLD GEORGETOWN  
ROAD LEVEL

New Vent

LOADING DOCK

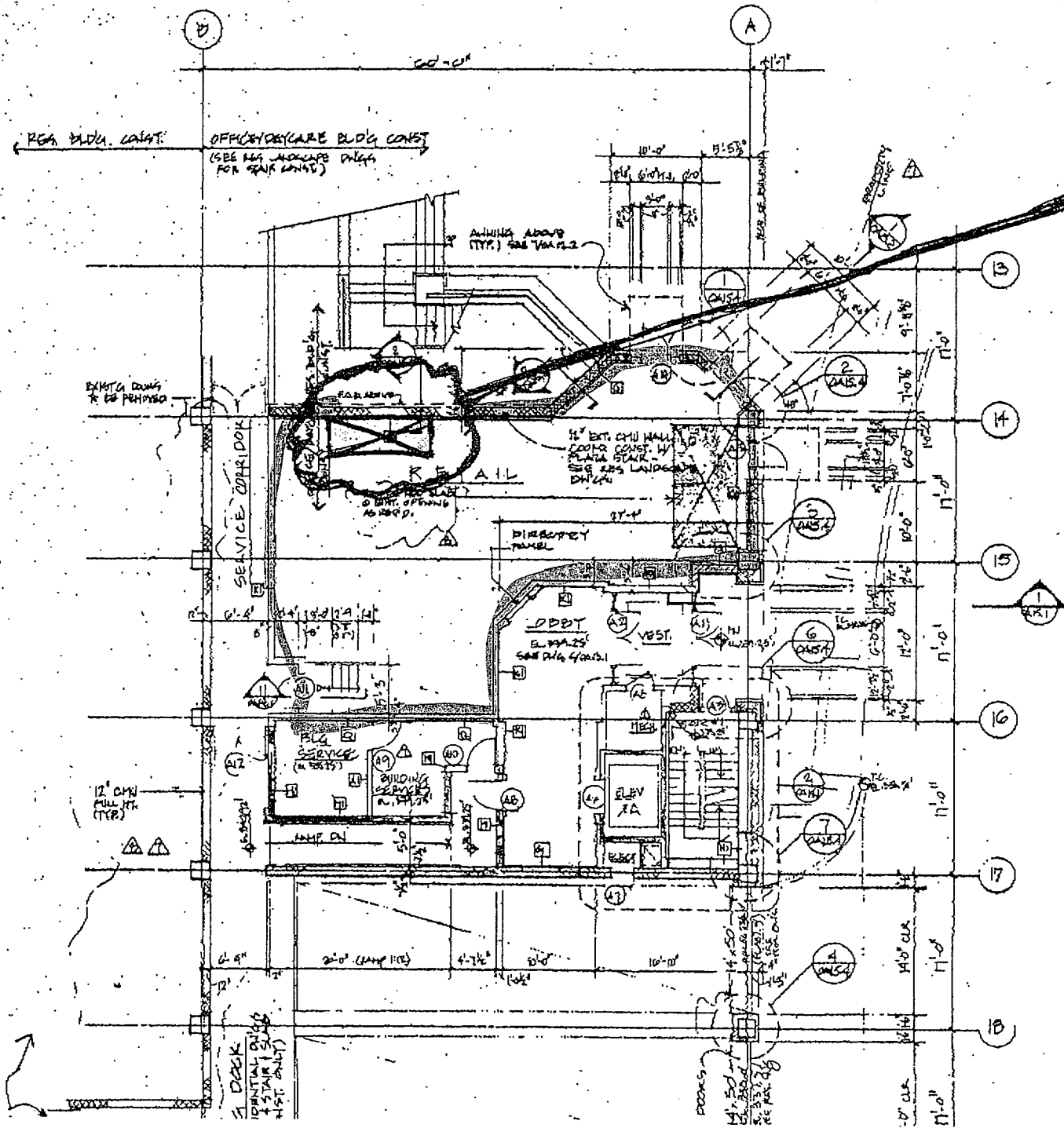
LOADING DOCK  
VENTILATION SYSTEMS

APARTMENT RECYCLE  
ROOM VENTILATION  
SYSTEM



"Drawing A"

SEE DETAIL A  
ON TIME CAFE





**THE WELLS  
PARTNERS**  
ARCHITECTS & PLANNERS  
1401 K Street,  
Washington, D.C.  
Telephone: 202-638-1100  
Telex: 202-638-1100

**BOB SLOVA, ROSE  
& ASSOCIATE  
STRUCTURAL ENGINEERS**  
1101 EXECUTIVE BL.  
SUITE 220  
ROCKVILLE, MD 20  
PHONE: 27  
FAX: 27

**GERARD ENGIN  
CHARTER  
MECHANICAL  
ELECTRICAL TON**  
1263 REVERA  
SUITE 1210  
MOORE, VA 2  
PHONE: 71  
FAX: 71

M. PAUL FREE  
& PARTNER  
LANDSCAPE ARCH  
41 EAST 11TH STREET  
3RD FLOOR  
NEW YORK, NY 10003  
PHONE: 212 677 1111  
FAX: 212 677 1111

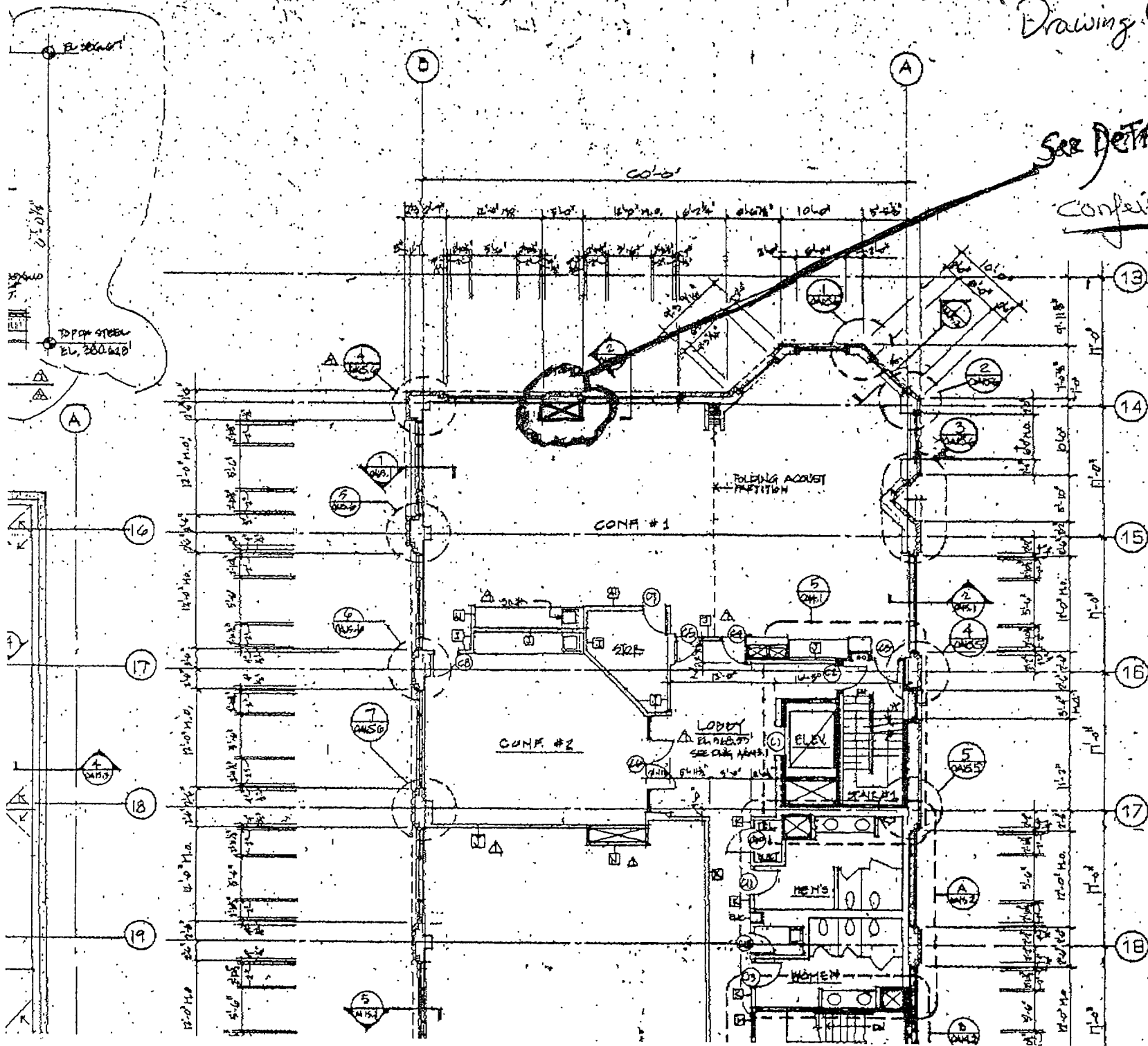
# METROPOLITAN PARK

# METROPOLITAN

See DETAIL C

conference room

3<sup>rd</sup> L/r



SEE DETAIL D

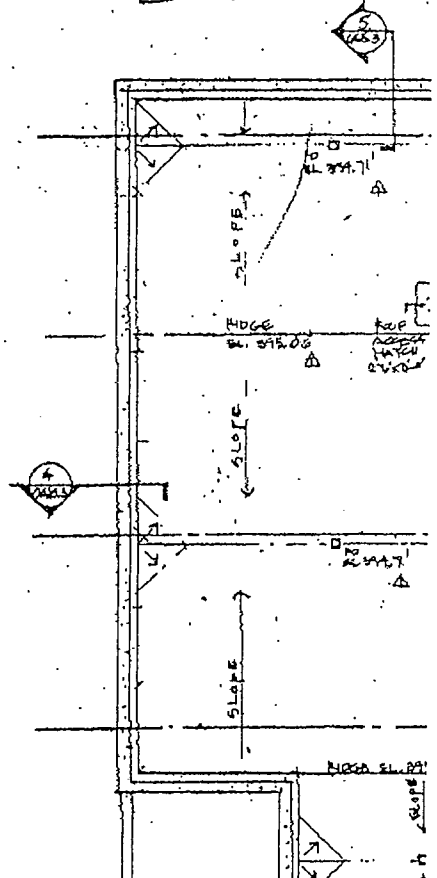
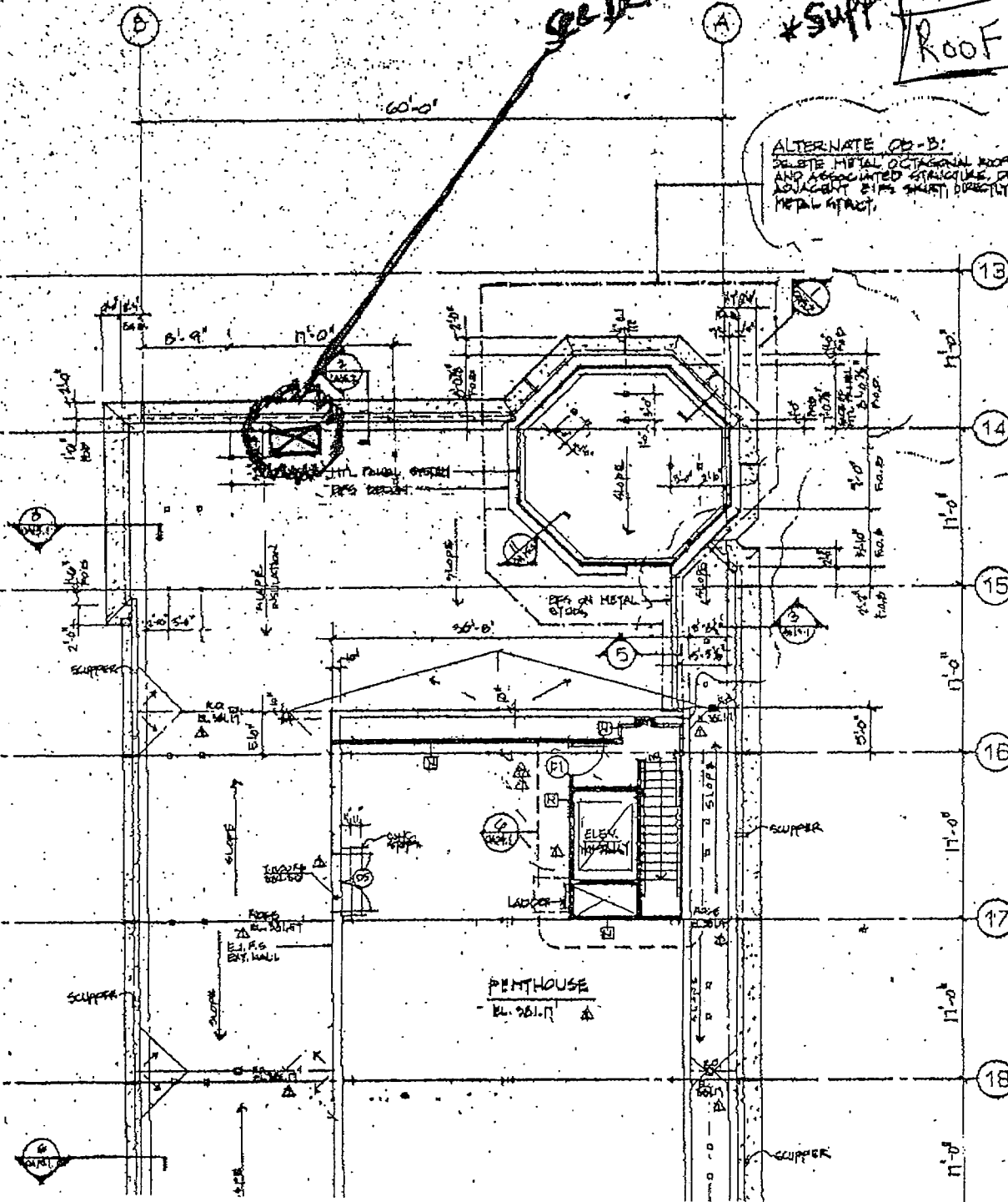
\* EXHAUST FAN  
\* SUPPLY FAN  
Roof

"Drawing D"

ALTERNATE OR-B:  
DELETE METAL OCTAGONAL ROOF AND SIDING  
AND ASSOCIATED STRUCTURE. DELETE  
ADJACENT SIPS SKIRT DIRECTLY BELOW  
METAL CONTACT.

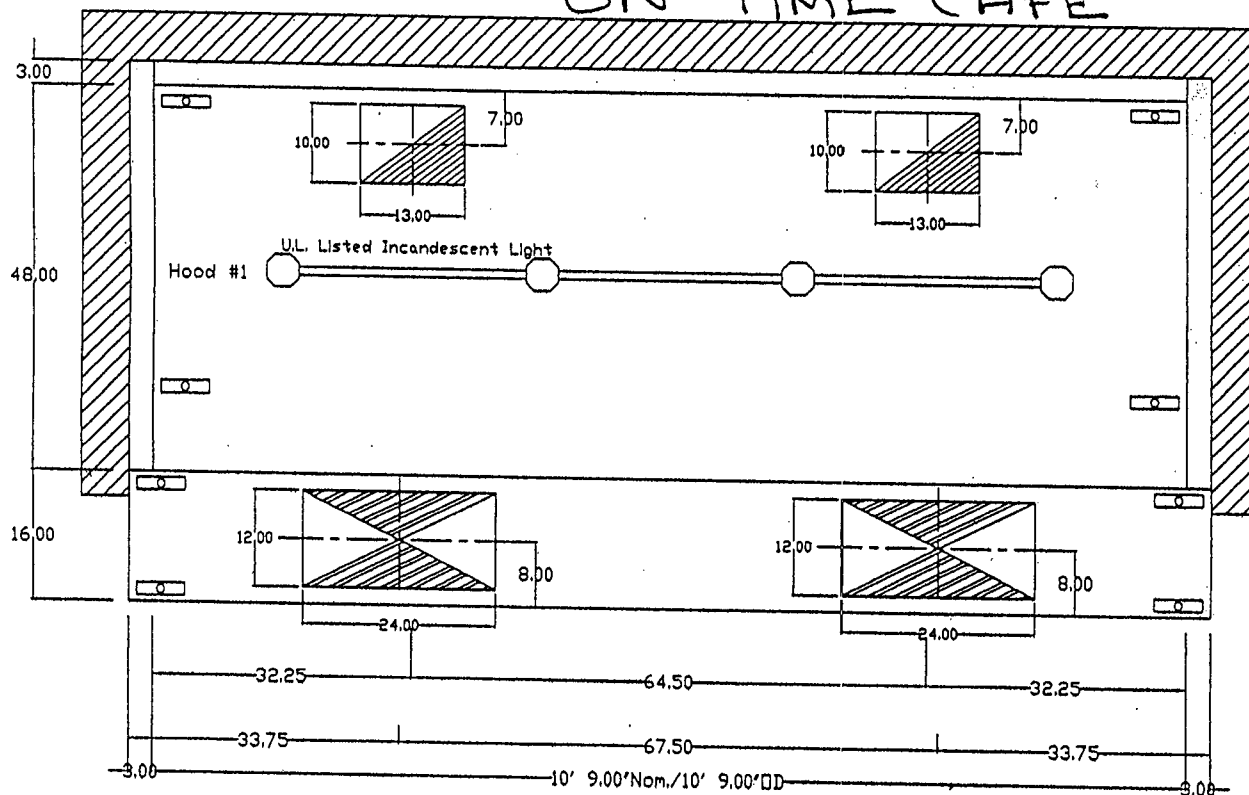
SIPS ON 1/2"  
CLIPPING ON 3/8"  
SIPS STUDS 1/2" x 1/2" x 10'  
ADJACENT SIPS SKIRT  
STRUCT. PART 8' x 10' x 10'

5 SECTION ELEV SKIN  
4 1/2" x 11 1/2"



# "DETAIL A"

## ON TIME CAFE



PLAN VIEW - 10' 9.00' LONG 4824ND-PSP-F

### VERIFY CEILING HEIGHT

Height required to verify that the hood will fit and to size the enclosure panels

2nd Floor  
Ed office  
Detail B

3rd Floor  
Conference Room  
Detail C

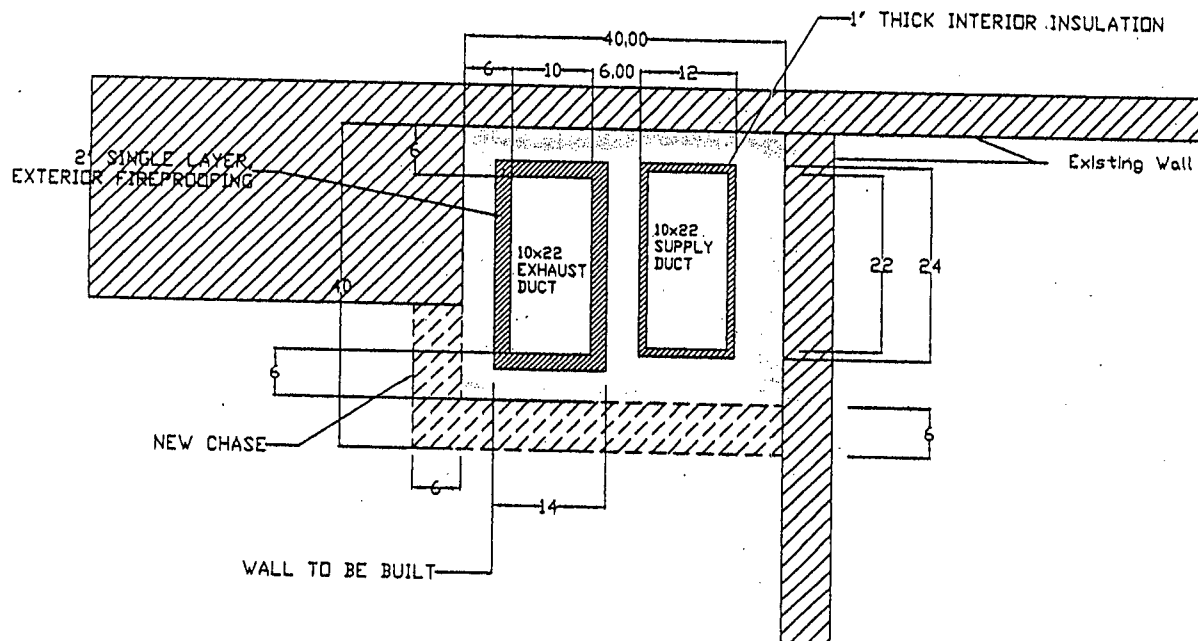
FOR QUESTIONS CALL CAPTIVE AIRE

7815A OLD GEORGETOWN RD, BETHESDA, MD 20814  
PHONE: (301) 986-1676, (800) 988-0881  
FAX: (301) 986-1795

**CAPTIVE AIRE**

JOB OnTime Cafe - DeMents	
LOCATION	
DATE 06/28/2005	JOB # 0
DWG # ontime_dements	DRAWN BY IB
REV. 1.00	SCALE 8.5' x 11'

# "DETAIL B"



ED'S OFFICE

DIRECTORS OFFICE

This office has a empty space in corner, which was made to run duct.

FOR QUESTIONS CALL CAPTIVE AIRE

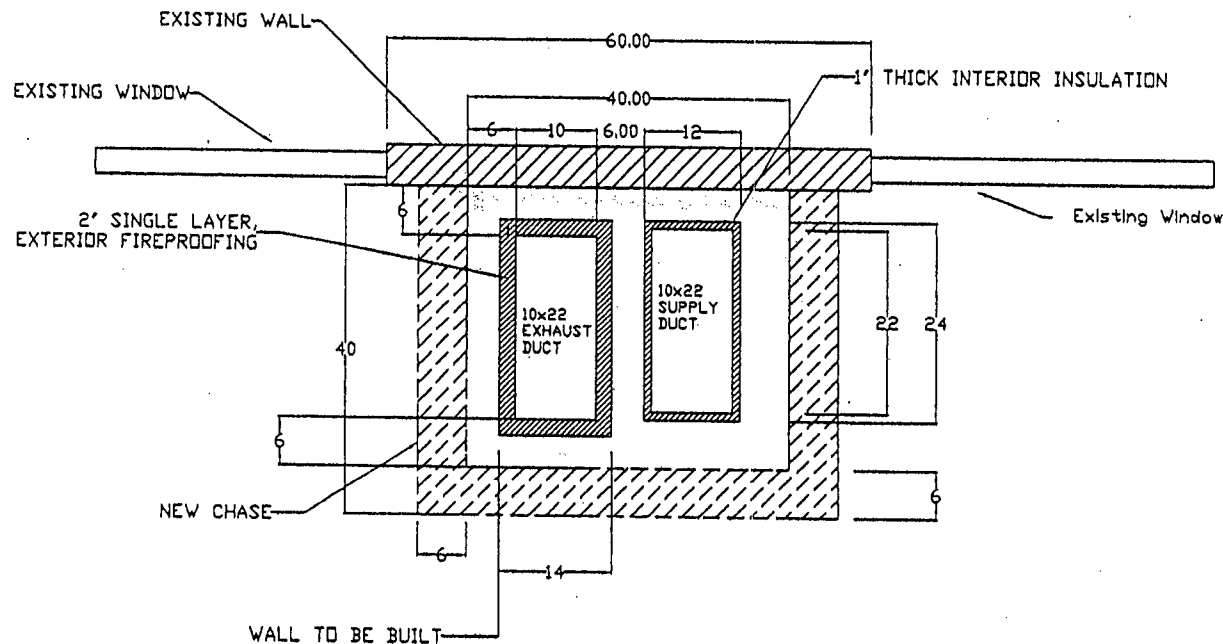
7815A OLD GEORGETOWN RD, BETHESDA, MD 20814  
PHONE: (301) 986-1676, (800) 988-0881  
FAX: (301) 986-1795

**CAPTIVE AIRE**

JOB	Overtime Cafe - DeMents		
LOCATION	Bethesda, MD		
DATE	06/28/2005	JOB #	0
DWG #	overtime_dements	DRAWN BY	IB
REV.	1.00	SCALE	8.5' x 11'

Conference Room ( )

# "DETAIL C"



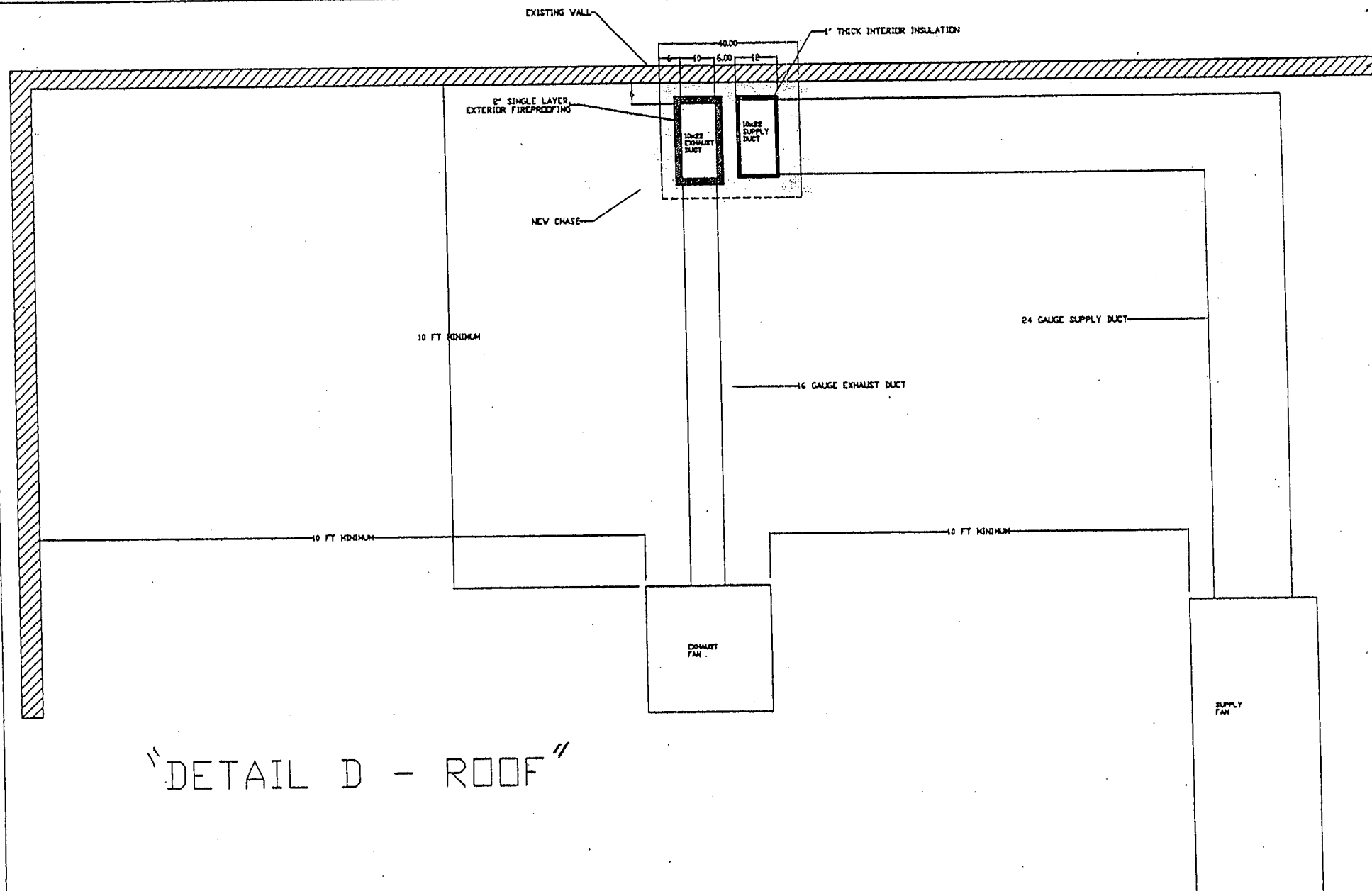
CONFERENCE ROOM

FOR QUESTIONS CALL CAPTIVE AIRE

7815A OLD GEORGETOWN RD, BETHESDA, MD 20814  
PHONE: (301) 986-1676, (800) 988-0881  
FAX: (301) 986-1795

**CAPTIVE AIRE**

JOB	Ontlme Cafe - DeMents		
LOCATION	Bethesda, MD		
DATE	06/28/2005	JOB #	0
DWG #	ontlme_dements	DRAWN BY	IB
REV.	1.00	SCALE	8.5' x 11'



FOR QUESTIONS CALL CAPTIVE AIRE

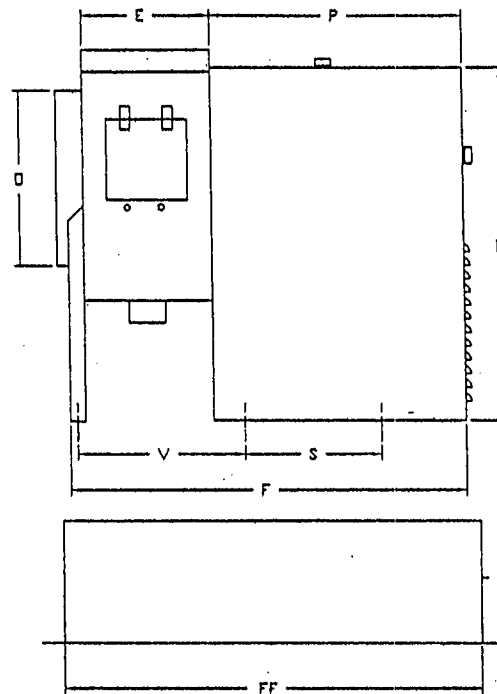
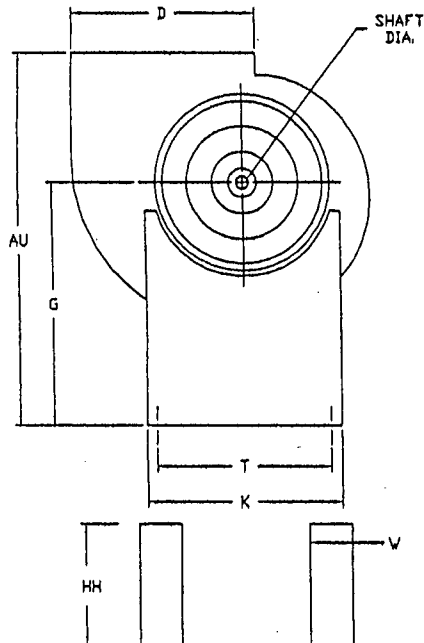
7815A OLD GEORGETOWN RD, BETHESDA, MD 20814  
 PHONE: (301) 986-1676, (800) 988-0881  
 FAX: (301) 986-1795

**CAPTIVE AIRE**

JOB OnTime Cafe - DeMent's	
LOCATION Bethesda, MD	
DATE 06/28/2005	JOB # 0
DWG # ontime_dements	DRAWN BY IB
REV. 1.00	SCALE 8.5' x 11'

# DETAIL D - EXHAUST FAN

## BI SERIES RESTAURANT DUTY UTILITY SET



31 UL762 Utility Set  
REV.04 01/07/2005

### FEATURES:

- FULL AMCA CLASS 1 OPERATION
- VENTED MOTOR COVER FOR WEATHER PROTECTION
- UL762 LISTED FOR RESTAURANT DUTY
- UPBLAST DISCHARGE DIRECTS AIR AWAY FROM FLOOR
- CONTINUOUSLY WELDED HOUSING
- CLEANOUT DOOR WITH LATCHES PROVIDE EASY ACCESS WITHOUT TOOLS
- 2" GREASE DRAIN WILL NOT CLOG

### OPTIONS:

- HEAT SLINGER
- SHAFT SEAL
- EMERGENCY DISCONNECT SWITCH
- VIBRATION ISOLATORS

### GENERAL & RESTAURANT DUTY UTILITY SET DIMENSIONAL DATA

FAN MODEL	AU	D	E	F	G	H	K	O	P	S	T	V	SHAFT DIA.	APPROX SHIPPING (LBS)	HH	V	FF
BI18	35 13/16	19 3/8	14 1/2	37 7/8	22	31	16 9/16	19 3/8	21 1/8	11 1/2	14 11/16	17 3/4	1 3/16	220	10	4	48

### VERIFY PITCH CURB

Curb Pitch Required in order to manufacture the curb to specification.

### FOR QUESTIONS CALL CAPTIVE AIRE

7815A OLD GEORGETOWN RD, BETHESDA, MD 20814  
PHONE: (301) 986-1676, (800) 986-0881  
FAX: (301) 986-1795

# CAPTIVE AIRE

JOB Online Cafe - DeMents

### LOCATION

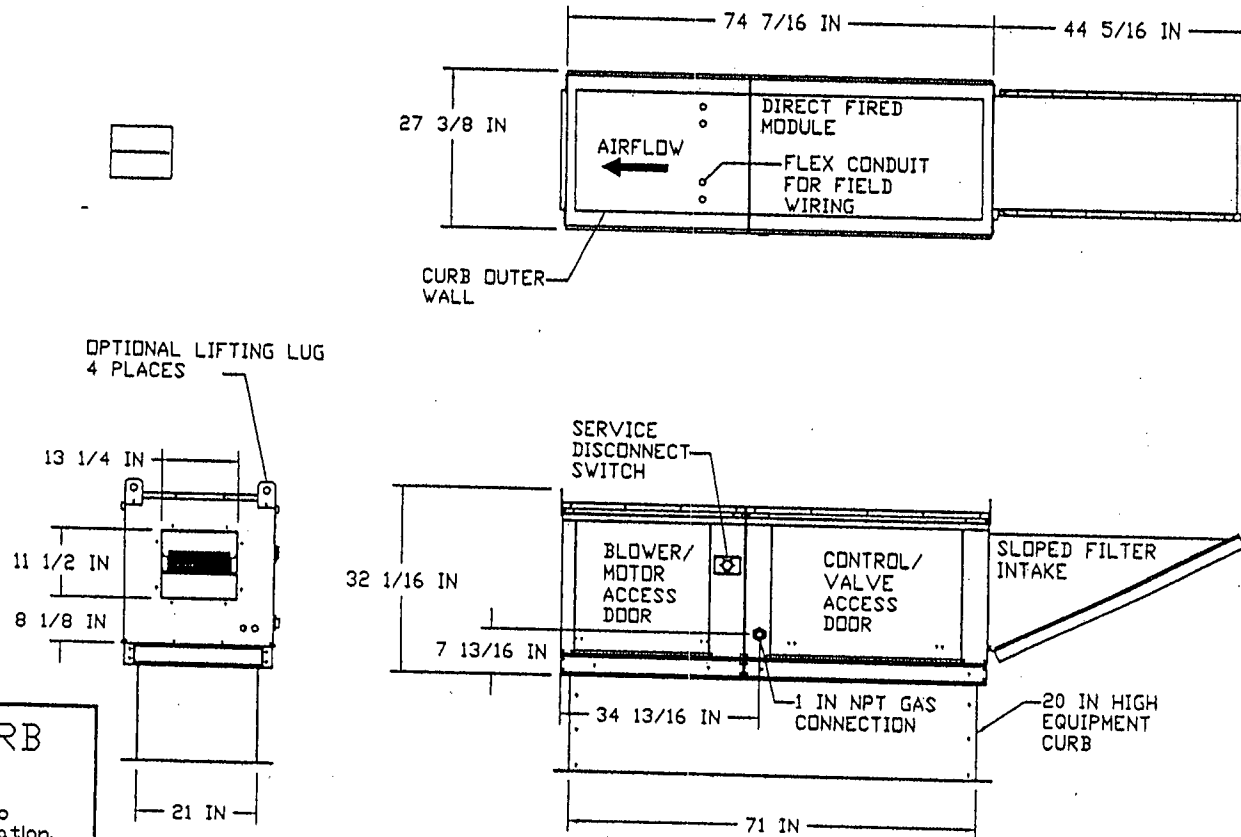
DATE 06/28/2005 JOB # 0

DWG # online\_dements DRAWN BY IB

REV. 1.00 SCALE 8.5' x 11'

# DETAIL D - SUPPLY FAN

A1-D.250-G10 -- SIDE DISCHARGE DIRECT FIRED HEATED MAKE UP AIR WITH SLOPED FILTER INTAKE



## VERIFY PITCH CURB

Curb Pitch Required in order to manufacture the curb to specification.

### NOTES:

- 1) ALL DIMENSIONS ARE NOMINAL AND GIVEN IN INCHES.
- 2) RECOMMENDED DISCHARGE DUCT SIZE = 13 IN TALL X 15 IN WIDE.
- 3) ROOF OPENING 2" SMALLER THEN CURB DIMENSION.

UNIT INFORMATION			
FILTER SIZE	BURNER SIZE	BLOWER SIZE	WEIGHT (lbs)
(3) 16INX20IN	250000 BTU	10 IN	350

FOR QUESTIONS CALL CAPTIVE AIRE

7815A OLD GEORGETOWN RD, BETHESDA, MD 20814  
PHONE: (301) 986-1676, (800) 988-0881  
FAX: (301) 986-1795

**CAPTIVE AIRE**

JOB Omlne Cafe - DeMents

LOCATION

DATE 06/28/2005

JOB # 0

DWG # ontime\_dements DRAWN BY IB

REV. 1.00

SCALE 8.5' x 11'